



Federal Communications Commission
Washington, D.C. 20554

DA: 07-2808

Released: June 27, 2007

Howard F. Jaeckel, Esq.
CBS Broadcasting, Inc.
1515 Broadway
New York, New York 10036

Re: Application for Renewal of License
Station KUTV(TV), Salt Lake City, Utah
File No. BRCT-20060601ASL
Facility ID No. 35823

Counsel:

On August 28, 2006, Andrea Gutton and Sharilee Guest ("Objectors") filed identical pleadings styled as formal petitions to deny ("Objections") opposing the license renewal application for Station KUTV(TV), Salt Lake City, Utah, licensed to KUTV Holdings, Inc. ("KUTV"), a wholly owned subsidiary of CBS Broadcasting, Inc. ("CBS").¹ CBS filed an opposition on January 9, 2007. In order to aid in our review of certain issues raised by the Objectors, we direct CBS and/or KUTV to provide specific responses to the information requests below within 10 calendar days from receipt of this letter.

The Objectors cite the December 31, 2004, episode of the program "Without a Trace," which resulted in the Commission issuing a *Notice of Apparent Liability for Forfeiture* ("NAL") against all CBS owned-and-operated and affiliated stations that aired the material before 10:00 PM.² The Objectors state that CBS has violated the terms of the November 23, 2004, Consent Decree between Viacom, Inc., CBS's parent, and the Commission,³ which required it "to immediately suspend all employees materially participating in the decision to air indecent programming, and launch an internal investigation upon the issuance of a Notice of Apparent Liability for violation of indecency law."⁴ In reply, CBS states that it had reached a "considered conclusion that it had presented nothing indecent and that none of its employees had done anything wrong."⁵

¹ The Objectors did not serve the licensee, or otherwise provide a return address on the petition.

² *In the Matter of Complaints Against Various Television Licensees Concerning Their December 31, 2004, Broadcast of the Program "Without a Trace,"* Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 2732 (2006).

³ *Viacom, Inc. et al.*, Order, 19 FCC Rcd 23100 (2004) ("2004 Consent Decree"), *pet. for recon. denied*, 12 FCC Rcd 12223 (2006).

⁴ *Objections*, at 3.

⁵ *CBS Opposition*, at 2, note 4.

As a result of the November 23, 2004, Consent Decree voluntarily entered into by Viacom, Inc, and its various subsidiaries, including CBS Broadcasting Inc., the FCC rescinded, vacated and cancelled several forfeiture orders and notices of apparent liability for forfeiture involving violations of the Commission's indecency prohibition to which Viacom and/or its various subsidiaries were subject, as well as terminated several pending indecency investigations that may have resulted in additional notices of apparent liability. Paragraph 8 of the Consent Decree states that, in exchange for these FCC actions, Viacom "within thirty (30) days of the Effective Date [of the Consent Decree], will adopt and implement a company-wide compliance plan for the purpose of preventing the broadcast of material in violation of the Indecency Laws, and will keep such compliance plan in effect for three (3) years after the Effective Date."⁶ Termination of the pending proceedings and/or investigations covered by the November 23, 2004, Consent Decree was also premised upon Viacom's commitment to undertake certain specific actions not generally required of licensees that are the subject of investigation by the FCC. More specifically, subsection (f) of Paragraph 8 states that "[i]f a Viacom-owned station receives a Notice of Apparent Liability for a broadcast occurring after the Effective Date which relates to violation of the Indecency Laws, all employees airing and/or materially participating in the decision to air such material will be suspended and an investigation will immediately be undertaken by Viacom....[s]uch employees will be required to undergo remedial training with respect to the Indecency Laws and satisfy station management that they understand such laws before resuming their duties."⁷ In order for the Commission to evaluate whether CBS has abided by its binding legal commitments, we direct CBS to respond to the following information requests:

1. Please indicate whether CBS or KUTV conducted an internal investigation following issuance of the March 15, 2006, *NAL*, and if so, please describe in detail the nature and results of the investigation.
2. If no investigation was conducted, please provide a detailed explanation as to how such action is consistent with paragraph 8(f) of the November 23, 2004, Consent Decree.
3. Please indicate whether CBS or KUTV suspended any employees who aired or materially participated in the decision to air the December 31, 2004, episode of "Without a Trace" following issuance of the March 15, 2006, *NAL*, pending the outcome of a separate investigation. If so, please provide the name(s) of the individual(s) suspended, their role in the decision to air the December 31, 2004, episode of "Without a Trace," and the date of suspension. Please explain, if applicable, whether the suspended employee(s) were subsequently reinstated, and the basis for reinstatement.

⁶ 2004 *Consent Decree*, 19 FCC Rcd at 23105.

⁷ *Id.* at 23106.

4. If no employees were suspended following the March 15, 2006, *NAL*, please provide a detailed explanation as to how such action is consistent with paragraph 8(f) of the November 23, 2004, Consent Decree.
5. Finally, please indicate whether any CBS or KUTV employees underwent remedial training with respect to the Commission's indecency prohibition following issuance of the March 15, 2006, *NAL*, and, if so, provide the names of the employees that underwent such remedial training. Describe in detail the nature of such remedial training, specifically how the employees satisfied station management that they understood the indecency laws before resuming their duties.
6. If no remedial training was conducted, please provide a detailed explanation as to how such action is consistent with paragraph 8(f) of the November 23, 2004, Consent Decree.

Your responses should be in the form of an amendment to the above-captioned license renewal application referencing each of the numbered questions above. We direct CBS and/or KUTV to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of either CBS or KUTV with personal knowledge of the representations provided in the response, verifying the truth and accuracy of the information therein. All such declarations provided must comply with section 1.16 of the Commission's rules, and be substantially in the form set forth therein.⁸ CBS and/or KUTV should provide the requested information as soon as possible, but in any event within 10 days from the receipt of this letter.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁸ 47 C.F.R. § 1.16.